



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 2, 1998

Ms. E. Cary Grace
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR98-2090

Dear Ms. Grace:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 118727.

The City of Houston Police Department has received a request for an incident report regarding a suspected assault. Except for the "Public Release Information portion" of the requested report, which you say the department will make available to the requestor, you seek to withhold the requested information under Government Code section 552.108.

Section 552.108 provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required disclosure] if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime; [or]

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

....

(c) This section does not except from [public disclosure] information that is basic information about an arrested person, an arrest, or a crime.

You advise that the case to which the requested report relates is still open in that the applicable two year statute of limitations will expire on August 20, 1998, and no charges have yet been filed or prosecution initiated. Thus you claim that the information at issue is protected from disclosure by subsection (a)(1) of section 552.108. Alternatively, you argue that the information in question relates to "an investigation that did not result in conviction or deferred adjudication," and that it may thus be withheld under subsection (a)(2) of section 552.108.

We have reviewed your arguments and the records at issue. We conclude that you may withhold the information at issue under section 552.108(a)(1) until August 20, 1998, or so long as any prosecution initiated in the meantime is still pending. If the statute of limitations in the matter expires on August 20, 1998, and no prosecution has been undertaken, you may thereafter withhold the information under section 552.108(a)(2).

You must, however, release from the requested report "front page" information specifically made public in *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See also* Gov't Code § 552.108(c).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



William Walker
Assistant Attorney General
Open Records Division

WMW/ch

Ref: ID# 118727

Enclosures: Submitted documents

cc: Ms. Carmen Sherman
1455 Gibbs Street
San Antonio, Texas 78202
(w/o enclosures)